

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IVAN L. MENDEZ,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 05-305-JJF
)	
DELAWARE STATE,)	
)	
Defendant.)	

ORDER

1. The plaintiff Ivan L. Mendez, SBI #45351, a pro se litigant who is presently incarcerated, has filed this action pursuant to 42 U.S.C. § 1983. The Court granted the plaintiff leave to proceed in forma pauperis on June 7, 2005, and ordered the plaintiff to file a certified copy of his prison trust account statement within thirty days, or the complaint would be dismissed. The plaintiff filed the required documents on June 23, 2005.

2. The Court has determined that the **plaintiff has no assets and no means to pay the initial partial filing fee, nevertheless, any money the plaintiff later receives will be collected in the manner described below.**

3. The plaintiff shall, within thirty days from the date this order is sent, complete and return the attached authorization form allowing the agency having custody of him to

forward all payments required by 28 U.S.C. § 1915(b)(2) to the Clerk of the Court. **FAILURE OF THE PLAINTIFF TO RETURN THE AUTHORIZATION FORM WITHIN THIRTY DAYS FROM THE DATE THIS ORDER IS SENT SHALL RESULT IN DISMISSAL OF THIS ACTION.**

4. The plaintiff shall be required to make monthly payments of 20 percent (20%) of the preceding month's income credited to the plaintiff's prison trust account and absent further order of the Court, the Warden or other appropriate official at the Delaware Correctional Center, or at any prison at which the plaintiff is or may be incarcerated, shall forward payments from his account to the Clerk of the Court each time the amount in the account exceeds \$10.00 until the filing fee is paid. **NOTWITHSTANDING ANY PAYMENT MADE OR REQUIRED, THE COURT SHALL DISMISS THE CASE IF THE COURT DETERMINES THAT THE ACTION IS FRIVOLOUS OR MALICIOUS, FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF.**

5. Pursuant to 28 U.S.C. § 1915(g), if plaintiff has had three or more actions dismissed by the Court on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, the Court shall deny plaintiff leave to proceed in forma pauperis all future suits filed without prepayment of the filing fee, unless the Court determines that

plaintiff is under imminent danger of serious physical injury.

DATED:

July 7, 2005

United States District Judge